



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

July 9, 2007

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Lance McCuiston, d/b as
LM Services and
Scorpion Jammer Technology
1224 West 96th Avenue
Thornton, CO 80260-5467

Re: File No. EB-05-SE-253

Dear Mr. McCuiston:

This is an official **CITATION**, issued to Mr. Lance McCuiston, d/b as LM Services and Scorpion Jammer Technology ("Scorpion") pursuant to Section 503(b)(5) of the Communications Act of 1934, as amended ("Act")¹ for marketing unauthorized radio frequency devices in the United States, specifically, the Scorpion "Ultimate" KA Jammer and Scorpion Jammer devices,² in violation of Section 302(b) of the Act,³ and Section 2.803 of the Commission's Rules ("Rules").⁴ In addition, you have failed to respond to directives of the Enforcement Bureau to provide certain information and documents. As explained below, future violations of the Commission's rules may subject your company to monetary forfeitures.

On June 14, 2005, December 15, 2006, and January 25, 2007, staff from the Spectrum Enforcement Division observed on your website, www.scorpionjammers.com, that Scorpion was marketing⁵ the above-listed radio frequency devices. On July 2, 2007, staff from the Spectrum Enforcement Division observed that Scorpion was marketing the above-listed radio frequency devices on another website, www.activejammers.com.

¹ 47 U.S.C. § 503(b)(5).

² Our information indicates that Scorpion may have discontinued manufacturing and marketing radio frequency devices designated as the Phantom RCD and the Phantom RDC XP. If Scorpion is continuing to market the Phantom RCD and/or the Phantom RDC XP, this citation also applies to those devices.

³ 47 U.S.C. § 302a(b).

⁴ 47 C.F.R. § 2.803.

⁵ "Marketing is defined as "sale or, or offering for sale or lease, including advertising for sale or lease, or importation, shipment, or distribution for the purpose of selling or leasing or offering for sale or lease." 47 C.F.R. § 2.803(e)(4).

By Letter of Inquiry (“LOI”) dated September 1, 2005,⁶ the Spectrum Enforcement Division of the Enforcement Bureau initiated an investigation into whether Scorpion is manufacturing and marketing in the United States unauthorized radio frequency devices, specifically, police radar jammers.⁷ In response to our LOI, we received a letter from Max McCuiston in which he stated that Lance McCuiston is Scorpion’s sole proprietor and that Lance McCuiston conducts all business operations.⁸ The response also stated that any further request for information would have to be addressed to Lance McCuiston at Scorpion Jammer Technology, 1224 West 96th Avenue, Thornton, Colorado 80260. On February 5, 2007, the Spectrum Enforcement Division sent a second LOI to Scorpion,⁹ addressed to Lance McCuiston at the address provided by Max McCuiston. The February 5, 2007, LOI directed Scorpion to provide the answers to specific questions concerning its equipment and to provide samples of its devices for testing. Scorpion has neither provided a response to the questions posed, nor provided samples of the specified devices. United States Postal Service records show that the February 5, 2007, LOI was delivered to your address on February 10, 2007.

Section 302(b) of the Act provides that “[n]o person shall ... offer for sale, or ship devices or home electronic equipment and systems, or use devices, which fail to comply with regulations promulgated pursuant to this section.” Section 2.803(a)(1) of the Rules,¹⁰ provides that:

[N]o person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship, or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless ... [i]n the case of a device subject to certification, such device has been authorized by the Commission in accordance with the rules in this chapter and is properly identified and labeled as required by § 2.925 and other relevant sections in this chapter.

Pursuant to Section 15.201(b) of the Rules,¹¹ intentional radiators must ordinarily be authorized in accordance with the certification procedure prior to marketing in the United States. It does not, however, appear that the jammer devices identified above are capable of receiving a grant of certification. In this

⁶ Letter from Kathryn S. Berthot, Deputy Chief, Spectrum Enforcement Division, to Max McCuiston, Scorpion Jammer Technology (September 1, 2005).

⁷ Based on your website, it appears that you have manufactured similar devices in the past:

We are the manufacturer of the Phantom “RCD,” Phantom XP and Scorpion Active Radar Jammers. Lance McCuiston has been involved in the production of these units since they started out being made by Phantom Technology in 1996. Lance acquired the sole rights to keep producing the “active” radar jamming product called the Phantom after Phantom Technology went out of business. Now we have upgraded the old technology to manufacture the most powerful jammer yet capable of beating the new digital radar guns that have hit today’s highways called the “Scorpion.”

However, we currently do not have sufficient evidence to confirm the manufacture of the noted models.

⁸ Letter from Max McCuiston, Customer Service, Scorpion Jammer Technology, to Federal Communications Commission (Letter undated, received September 26, 2005).

⁹ Letter from Kathryn S. Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Lance McCuiston, Scorpion Jammer Technology (February 5, 2007).

¹⁰ 47 C.F.R. § 2.803(a)(1).

¹¹ 47 C.F.R. § 15.201(b).

regard, the stated purpose of police radar jammers is to block or interfere with licensed police communication. Such use is clearly prohibited by Section 333 of the Act,¹² which prohibits any person from willfully or maliciously interfering with or causing interference to any radio communications of any station licensed or authorized by the Commission. Thus, devices such as police radar jammers that intentionally interfere with licensed radio communications are not eligible for certification. Further, Section 2.803(g) of the Rules¹³ provides in pertinent part that:

[R]adio frequency devices that could not be authorized or legally operated under the current rules ... shall not be operated, advertised, displayed, offered for sale or lease, sold or leased, or otherwise marketed absent a license issued under part 5 of this chapter or a special temporary authorization issued by the Commission.

Sections 4(i), 4(j), and 403 of the Act,¹⁴ afford the Commission broad authority to investigate the entities it regulates. Section 4(i) authorizes the Commission to “issue such orders, not inconsistent with this Act, as may be necessary in the execution of its functions.” Section 4(j) states that “the Commission may conduct its proceedings in such manner as will best conduce to the proper dispatch business and to the ends of justice.” Section 403 grants the Commission “full authority and power at any time to institute an inquiry, on its own motion, in any case and as to any matter or thing concerning which complaint is authorized to be made, to or before the Commission by any provision of this Act, or concerning which any question may arise under any of the provisions of this Act.” Pursuant to this authority, we sent you LOIs (copies enclosed) directing you to provide certain information and documents on September 1, 2005, and February 5, 2007. A representative of Scorpion, Max McCuiston, submitted an incomplete response to the September 1, 2007, LOI. As of this date, we have received no response to the February 5, 2007, LOI. Your partial response indicates that you received the first LOI. The certified mail tracking system provided by the United States Post Office indicates that you received the second LOI. Accordingly, we find that you violated Commission orders by failing to respond fully to Enforcement Bureau directives to provide certain information and documents.

The record before us indicates that Scorpion apparently is and has been marketing the Scorpion “Ultimate” KA Jammer and Scorpion Jammer devices. Accordingly, it appears that Scorpion has violated Section 302(b) of the Act and Section 2.803 of the Rules by marketing the devices, which are not eligible for a grant of equipment certification because they are intended to interfere with licensed police radar, in violation of Section 333 of the Act. Furthermore, Scorpion apparently violated Commission orders by failing to respond to Enforcement Bureau directives to provide certain information and documents.

A party may not ignore the directives in a Bureau inquiry letter.¹⁵ You are again ordered, pursuant to Sections 4(i), 4(j) and 403 of the Act, to provide the information sought by our letter of February 5, 2007. You must provide this information within 14 days of the date of this citation. If sent by mail, this information should be sent to Susan Stickley, Spectrum Enforcement Division, Enforcement

¹² 47 U.S.C. § 333.

¹³ 47 C.F.R. § 2.803(g).

¹⁴ 47 U.S.C. §§ 154 (i), 154 (j) and 403.

¹⁵ See, e.g., *SBC Communications, Inc.*, Forfeiture Order, 17 FCC Rcd 7589, 7591 (2002). In *SBC Communications*, the Commission assessed a \$100,000 forfeiture against a carrier for its willful refusal to supply a sworn declaration in response to an Enforcement Bureau letter of inquiry. The Commission stated: “[T]he order here was squarely within the Commission’s authority and, in any event, parties are required to comply with Commission orders even if they believe them to be outside the Commission’s authority.” *Id.* at 7591.

Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 3-A463, Washington, D.C. 20554. Scorpion must also transmit a copy of this information via facsimile to 202-418-7290.

If, after receipt of this citation, Scorpion violates the Communications Act or the Commission's rules in any manner described herein, including the continued marketing of police radar jammer devices and the continued failure to respond to the letter of inquiry issued by the Spectrum Enforcement Division, the Commission may impose monetary forfeitures not to exceed \$11,000 for each such violation or each day of a continuing violation.¹⁶

If you choose to do so, you may respond to this citation within 30 days from the date of this letter either through (1) a personal interview at the Commission's Field Office nearest to your place of business, or (2) a written statement. Your response should specify the actions that Scorpion is taking to ensure that it does not violate the Commission's rules governing the manufacturing and marketing of police radar jamming devices in the future.

Your nearest Commission field office is the Denver Field Office. Please call Susan Stickley at 202-418-0871 if you wish to schedule a personal interview. You should schedule any interview to take place within 14 days of the date of this letter. You should send any written statement within 14 days of the date of this letter to:

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau
Federal Communications Commission
445-12th Street, S.W., Rm. 3-C366
Washington, D.C. 20554

Under the Privacy Act of 1974, 5 U.S.C. § 552(a)(e)(3), we are informing you that the Commission's staff will use all relevant material information before it, including information that you disclose in your interview or written statement, to determine what, if any, enforcement action is required to ensure your compliance with the Communications Act and the Commission's rules.

The knowing and willful making of any false statement, or the concealment of any material fact, in reply to this citation is punishable by fine or imprisonment under 18 U.S.C. § 1001.

Thank you in advance for your anticipated cooperation.

Sincerely,

Kathryn S. Berthot
Chief, Spectrum Enforcement Division
Enforcement Bureau

Enclosures

¹⁶ See 47 C.F.R. § 1.80(b)(3).